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In the event a fee is required for the filing of the attached document(s) or in implementing the addition of new claims or any claim amendments, and the required fee is not submitted or the fee submitted is incorrect, the Commissioner is hereby authorized to charge any additional fees to effect the filing of this document(s) or credit any overpayment under 37 CFR 1.16 and 1.17 to Account No. 50-0983.

Signature

Date

10-17-2003

(type or print name of person certifying)

Louis F. Wagner

October 17, 2003

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

<i>Applicant:</i>	Vandrak et al.	<i>Examiner:</i>	Unknown
<i>Serial #:</i>	10/605,486	<i>Art Unit:</i>	Unknown
<i>Filing Date:</i>	10/02/2003	<i>Date:</i>	10/18/2003
<i>Title:</i>	Gas-Fired Portable Unvented Infrared Heater		

MAIL STOP PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Petition to Make Special Because of Actual Infringement**

This Petition, with supporting declaration of a Statement of Facts by the inventor (attached), and a Statement by Attorney of Record in Support of Petition to Make Special Because of Actual Infringement, is submitted in accordance with 37 C.F.R. §1.102 and MPEP §708.02 in addition to the enclosed Petition Fee pursuant to 37 C.F.R. §1.17(i).

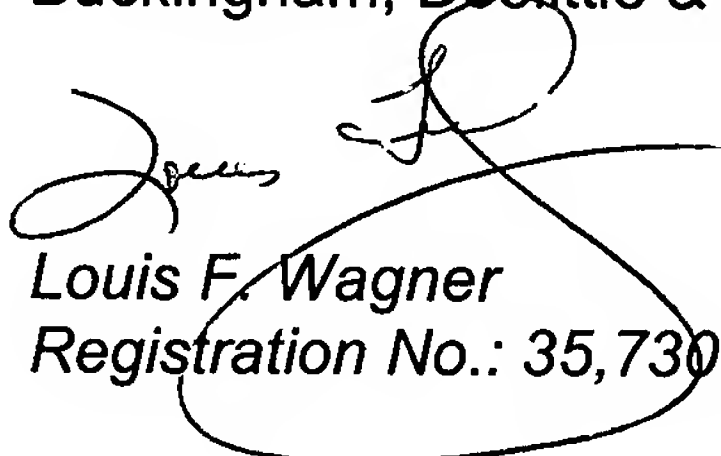
The application has not received any examination by the Examiner to date. The applicant's attorney has reviewed all pending claims in the case and it is his opinion that all claims in the case are directed to a single invention. If the Office determines that all of the claims presented are not obviously directed to a single invention, then the applicant will make an election without traverse as a prerequisite to this grant of special status.

The applicant's attorney has made a search of all full-text searchable records in the United States Patent & Trademark Office website as well as providing information to the Office in the form of an Information Disclosure Statement which identifies all prior art made known to the applicant as of the date of filing.

The fee required by 37 C.F.R. §1.17(I) of \$130.00 is attached in a check.

The Patent Office is authorized to charge any additional fees to deposit account no. 50-0983 or in the event that any refund is due, to credit the same.

Respectfully Submitted,  
Buckingham, Doolittle & Burroughs, LLP



Louis F. Wagner  
Registration No.: 35,730

LFW/dl

Buckingham, Doolittle & Burroughs, LLP  
50 S. Main St.  
P.O. Box 1500  
Akron, Ohio 44309-1500  
(330) 258-6453 (tel)  
(330) 252-5452 (fax)

Attorney Docket # 30816.0041

«AK3:666478\_1»



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

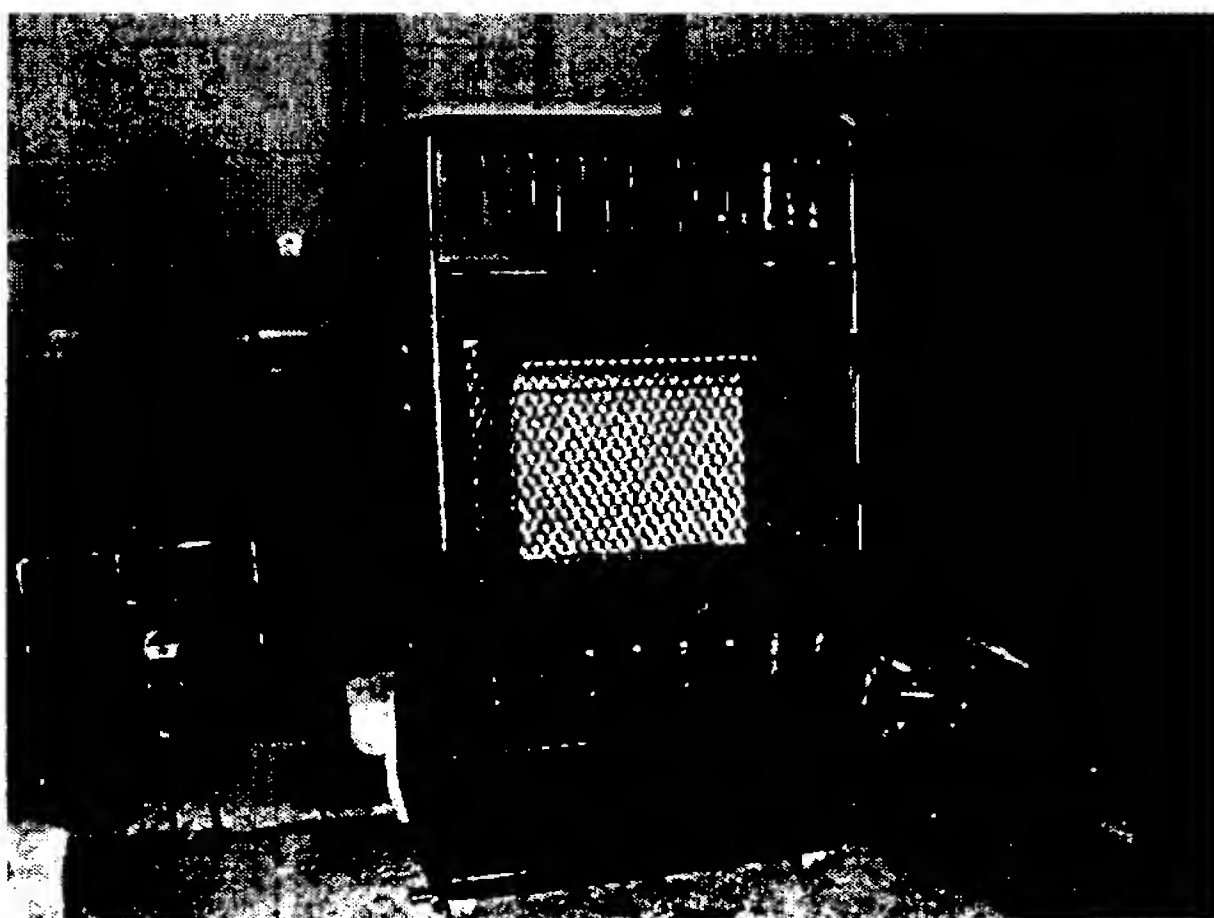
<i>Applicant:</i>	Vandrak et al.	<i>Examiner:</i>	Unknown
<i>Serial #:</i>	10/605,486	<i>Art Unit:</i>	Unknown
<i>Filing Date:</i>	10/02/2003	<i>Date:</i>	10/18/2003
<i>Title:</i>	Gas-Fired Portable Unvented Infrared Heater		

Commissioner of Patent and Trademarks  
Washington, D.C. 20231

**Statement in Support of Petition to Make Special Because of Actual Infringement**

I, *Louis F. Wagner*, am the practitioner in this case and make the following statements and hereby declare the following in accordance with MPEP §708.02:

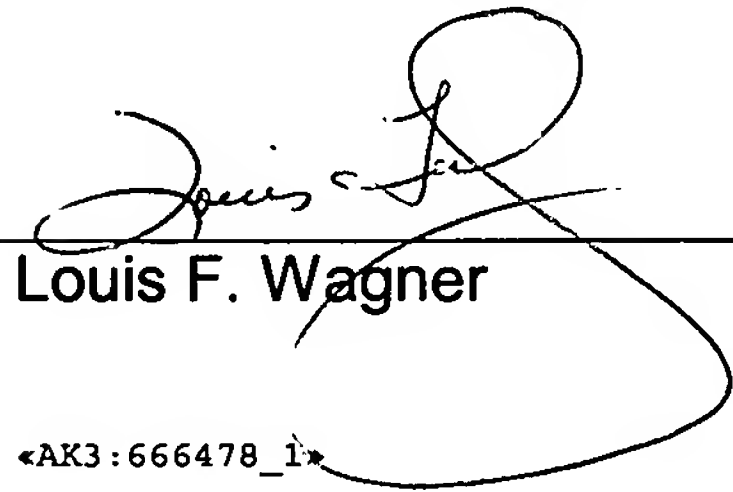
1. *That* I have made a rigid comparison of the allegedly portable infrared heater product purchased by John DuRoss as illustrated in the figures shown below which he has represented to me that he purchased on October 11, 2003 with the claims of the pending application serial no.10/605,486.



2. *That* I reviewed the disassembled heater product shown above and determined that it was essentially an exact duplicate of the product that is shown in the Figures of the pending patent application.
3. *That* in my opinion, independent claims 1, 32, 55, 103, and 131 on file in this application are unquestionably infringed.

4. *That* I have made a search of the pertinent prior art.
5. *That* all such prior art material has been provided to the Examiner in the form of an Information Disclosure Statement filed in the instant case.
6. *That* I believe that all claims in this application as on file are allowable.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
\_\_\_\_\_  
Louis F. Wagner

10-17-2003  
\_\_\_\_\_  
Date



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Signature

Louis F. Wagner

Date

October 17, 2003

(type or print name of person certifying)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Vandrak, et al.

Examiner: Unknown

Serial No: 10/605,486

Group Art Unit No: Unknown

Filed: October 2, 2003

For: GAS-FIRED PORTABLE UNVENTED INFRARED HEATER

MAIL STOP PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**TRANSMITTAL FOR PETITION TO MAKE SPECIAL**

Transmitted herewith:

1. Transmittal Form;
2. Fee Transmittal and fee by check (\$130);
3. Petition to Make Special Because of Actual Infringement;
4. Declaration of Facts in Support of Petition to Make Special;
5. Statement in Support of Petition to Make Special Because of Actual Infringement; and
6. Return/receipt post card.

**This document is presented contemporaneously with an Information Disclosure Statement.**

Respectfully submitted,  
BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP

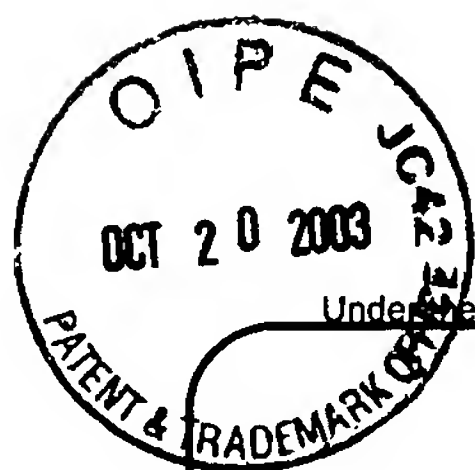
By:

Louis F. Wagner  
Registration No. 35,730

LFW/dl  
50 South Main Street  
Akron, Ohio 44308  
(330) 258-6453  
(330) 258-5452 (fax)

«AK3:666762\_1»





PTO/SB/21 (01-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/605,486
	Filing Date	10/2/2003
	First Named Inventor	Brian S. Vandrak
	Art Unit	Unknown
Examiner Name	Unknown	
Total Number of Pages in This Submission	10	Attorney Docket Number 30816-0041

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<b>Remarks</b> Petition to Make Special Declaration of Facts in Support of Petition to Make Special Statement in Support of Petition to Make Special Because of Actual Infringement Return postcard		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual	Louis F. Wagner
Signature	
Date	October 17, 2003

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: <del>Commissioner for Patents, Washington, DC 20231</del> on this date: <u>October 17, 2003</u> MAIL STOP <del>Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450</del>			
Typed or printed	Louis F. Wagner		
Signature		Date	October 17, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



\$

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 130.00

## Complete if Known

Application Number	10/605,486
Filing Date	10/02/2003
First Named Inventor	Vandrak, et al.
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	30816-0041

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number  
Deposit Account Name

50-0983

Buckingham, Doolittle

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ )

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	<input type="text"/>	-20** =	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
Independent Claims	<input type="text"/>	- 3** =	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
Multiple Dependent					<input type="text"/>	<input type="text"/>

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ )

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ ) 130

## SUBMITTED BY

(Complete (if applicable))

Name (Print/Type)	Louis F. Wagner	Registration No. (Attorney/Agent)	35,730	Telephone	330-258-6453
Signature		Date	October 17, 2003		

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